



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35773]

Mule Sidetracks, L.L.C.—Acquisition Exemption—Columbiana County Port Authority

Mule Sidetracks, L.L.C. (MSLLC), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to: (1) purchase a line of railroad owned by the Columbiana County Port Authority (CCPA) and currently operated by the Youngstown & Southeastern Railway Company (Y&SR), between milepost 0.0 in Youngstown, Ohio, and milepost 35.7 in Darlington, Pa. (the Line); and (2) receive from CCPA permanent assignments of CCPA's agreements and operating rights to approximately 3 miles of continuous track segments running east of milepost 0.0 that connect to the Line and that, *inter alia*, facilitate interchange with Norfolk Southern Railway Company (NSR) and CSX Transportation, Inc. (CSXT)<sup>1</sup> According to MSLLC, this transaction does not

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<sup>1</sup> These agreements and operating rights are as follows: (1) Overhead Trackage Rights Agreement dated May 7, 2001, between Ohio & Pennsylvania Railroad Company (OHPA) and Central Columbiana & Pennsylvania Railway, Inc. (CQPA), to which CCPA is successor; (2) Letter Agreement regarding yard operations dated November 30, 2001, among OHPA, CQPA, and CCPA; (3) Interchange Agreement dated July 23, 2002, as amended and in effect, among CSXT, OHPA, and CQPA and Interline Service Agreement, effective date April 1, 2004, between CSXT and CQPA, to which CCPA is successor; (4) Land Lease dated August 8, 2003, between CSXT and CQPA, which was assumed by CCPA, effective January 3, 2006; (5) Interchange Agreement dated May 1, 2001, and Interline Service Agreement, effective date October 5, 2004, between CQPA and NSR, to which CCPA is successor; (6) Easements granted by Allied Erecting & Dismantling Company, Inc. to The Pittsburgh and Lake Erie Railroad Company by agreements dated June 3, 1992, and November 10, 1993, and easements retained by PLE in deeds dated June 3, 1992, and November 10, 1993, from PLE to Allied (collectively, the Allied Easements), which Allied Easements were conveyed by Youngstown and Southern Railway Company to Railroad Ventures, Inc. (RVI) by deed dated November 8, (continued . . . )

involve any provision or agreement that may limit future interchange with a third-party connecting carrier.

According to MSLLC, it will be a common carrier on the Line, and, once it acquires the Line, MSLLC intends to continue operations with Y&SR.<sup>2</sup> In addition, MSLLC states that it will be the common carrier for the 3 miles of continuous track segments extending east of milepost 0.0 in Youngstown, Ohio, that connect with the Line, but Y&SR will operate on the lines solely as an agent of and in the name of MSLLC.

The transaction may be consummated on or after November 8, 2013, the effective date of the exemption.<sup>3</sup>

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( . . . continued)

1996, and by RVI to CCPA by deed dated January 23, 2001, and were included in the rights granted to CQPA by CCPA, including rights over the C.P. Graham Interlocking, and which collective rights were also conferred on CCPA by order of the Bankruptcy Court dated March 28, 2002, in In re: Pittsburgh & Lake Erie Properties, Inc., Case No. 96-406 (MFW), and to which CCPA is successor; and (7) Operating Rights Agreement between Matteson Equipment Company (Matteson) and CQPA, to which CCPA is successor, and Operating Rights Agreement between Eastern States Railroad, LLC (ESR) and Matteson dated July 14, 2006, to which CCPA is successor.

<sup>2</sup> To that end, Y&SR has filed a verified notice of exemption in Youngstown & Southeastern Railway Company—Operation Exemption—Mule Sidetracks, L.L.C., Docket No. FD 35774, by which Y&SR seeks an exemption to continue to operate the Line.

<sup>3</sup> This notice was scheduled to be published in the Federal Register during the time that the agency was closed due to a lapse in appropriations. Because publication of this notice has been delayed, the effective date of the exemption will also be delayed to provide adequate notice to the public.

MSLLC certifies that its projected annual revenues as a result of this transaction will not exceed \$5 million and will not result in the creation of a Class I or Class II rail carrier.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than November 1, 2013 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35773, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on MSLLC's counsel, Richard H. Streeter, Law Offices of Richard H. Streeter, 5255 Partridge Lane, N.W., Washington, DC 20016.

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Decided: October 22, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,  
Clearance Clerk.

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